

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ NOV - 1 2011 ★

RONALD MCPHATTER,

Civil Action No.:

Plaintiff,

BROOKLYN OFFICE
CV 11-5317

-against-

COMPLAINT

MONARCH RECOVERY MANAGEMENT,

DEMAND FOR JURY TRIAL

Defendant(s).

SUMMONS ISSUED

Plaintiff RONALD MCPHATTER ("Plaintiff"), by and through his attorneys, M. Harvey Rephen & Associates, P.C., as and for its Complaint against the Defendant MONARCH RECOVERY MANAGEMENT, hereinafter referred to as Defendant(s)", respectfully sets forth, complains and alleges, upon information and belief, the following:

GLEESON, J.

INTRODUCTION/PRELIMINARY STATEMENT

J. ORENSTEIN, M.J.

1. Plaintiff brings this action on his own behalf for damages and declaratory and injunctive relief arising from the Defendant's violation(s) of §1692 et seq. of Title 15 of the United States Code, commonly referred to as the Fair Debt Collections Practices Act ("FDCPA").

PARTIES

2. Plaintiff is a resident of the State of New York, residing at 470 Ocean Ave., Brooklyn, NY 11226.

3. Defendant MONARCH RECOVERY MANAGEMENT is a Pennsylvania corporation with their address at 10965 Decatur Road, Philadelphia, PA 19154.

4. The Defendant is a "debt collector" as the phrase is defined and used in the

FDCPA under 15 USC §1692a (6).

JURISDICTION AND VENUE

5. The Court has jurisdiction over this matter pursuant to 28 USC §1331, as well as 15 USC §1692 et seq. and 28 U.S.C. §2201. If applicable, the Court also has pendent jurisdiction over the state law claims in this action pursuant to 28 U.S.C. §1367(a).

6. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2).

FACTUAL ALLEGATIONS

7. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "6" herein with the same force and effect as if the same were set forth at length herein.

8. On information and belief, Defendant, on behalf of a third-party, began collecting an alleged consumer debt from the Plaintiff.

9. On information and belief, and better known to the Defendant, the Defendant began its collection efforts and campaign of communicating with the Plaintiff by calling the Plaintiff to his sister, Betty McPhatter's, home phone number, 718.940.7328, and leaving pre-recorded computerized messages on July 25th, 2011. The messages included the call back number of 800.503.3852 and the file number of 21730214. The messages contained full disclosures under 15 USC § 1692e (11). The Plaintiff did not live with his sister when the messages were left and did not authorize her as a contact regarding any alleged debts.

10. The Plaintiff's sister heard the Defendant's messages while checking her voicemails and learned the Plaintiff owed a debt.

11. The Defendant's messages violated 15 USC § 1692c (b) by disclosing to a third party, the Plaintiff's sister, Betty McPhatter, that Plaintiff owed a debt and was

being contacted by a debt collector.

FIRST CAUSE OF ACTION
(Violations of the FDCPA)

12. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "11" herein with the same force and effect as if the same were set forth at length herein.

13. Defendant's debt collection efforts attempted and/or directed towards the Plaintiff violated various provisions of the FDCPA, including but not limited to 15 USC §1692 c (b).

14. As a result of Defendant's violations of the FDCPA, Plaintiff has been damaged and is entitled to damages in accordance with the FDCPA.

DEMAND FOR TRIAL BY JURY

15. Plaintiff RONALD MCPHATTER hereby respectfully requests a trial by jury for all claims and issues in its Complaint to which it is or may be entitled to a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff RONALD MCPHATTER demands judgment from the Defendants MONARCH RECOVERY MANAGEMENT, as follows:

- A. For actual damages provided and pursuant to 15 USC §1692k (a) (1);
- B. For statutory damages provided and pursuant to 15 USC §1692(2)(A);
- C. For statutory damages provided and pursuant to 15 USC§1692k(2)(B);
- D. For attorneys' fees and costs provided and pursuant to 15USC§1692(a)(3);

E. A declaration that the Defendant's practices violated the FDCA;

F. For any such other and further relief, as well as further costs, expenses and disbursements of this action, as this Court may deem just and proper.

Dated: New York, New York
September 29, 2011

Respectfully submitted,

By: 
M. Harvey Rephen, (MR3384), Esq.
M. HARVEY REPHEN & ASSOCIATES, P.C.
708 Third Avenue, 6th Floor
New York, New York 10017
Phone: (212) 796-0930
Facsimile: (212) 330-7582

Attorney for the Plaintiff Ronald McPhatter

To: Monarch Recovery Management
10965 Decatur Road
Philadelphia, PA 19154

(Via Prescribed Service)

Clerk,
United States District Court, Eastern of New York
(For Filing Purposes)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CASE NO.:

RONALD MCPHATTER,

Plaintiff,

-against-

MONARCH RECOVERY MANAGEMENT,

Defendant(s),

COMPLAINT

*M. HARVEY REPHEN & ASSOCIATES, P.C.
708 Third Avenue, 6th Floor
New York, New York 10017
Phone: (212) 796-0930
Facsimile: (212) 330-7582*
